UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID BUEHRING, Individually and on Behalf of All Others Similarly Situated, Plaintiff, vs. TEMPUR SEALY INTERNATIONAL, INC., SCOTT L. THOMPSON, and BARRY A. HYTINEN Defendants.	Civil Action No. CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS

Plaintiff David Buehring, individually and on behalf of all others similarly situated, alleges the following based upon information and belief as to the investigation conducted by Plaintiff's counsel, which included, among other things, a review of U.S. Securities and Exchange Commission ("SEC") filings by Tempur Sealy International, Inc. ("Tempur Sealy" or the "Company"), securities analyst reports, press releases, and other public statements issued by, or about, the Company. Plaintiff believes that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a federal securities class action brought on behalf of all those who purchased Tempur Sealy common stock between July 28, 2016 and January 27, 2017, inclusive (the "Class Period"), seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

JURISDICTION AND VENUE

2. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§78j(b) and 78t(a), and Rule 10b-5 promulgated thereunder by the SEC, 17 C.F.R. §240.10b-5. This Court has jurisdiction over the subject matter of this action under Section 27 of the Exchange Act, 15 U.S.C. §78aa, and 28 U.S.C. §1331, because this is a civil action arising under the laws of the United States.

3. Venue is proper in this District under Section 27(c) of the Exchange Act, 15 U.S.C. §78aa(c), and 28 U.S.C. §1391(b) - (d), as substantial acts in furtherance of the alleged violations of law complained of herein occurred in this District. In addition, the Company's securities are actively traded in this District.

4. In connection with the acts alleged in this Complaint, Defendants (defined below) directly or indirectly, used the means and instrumentalities of interstate commerce, including, without limitation, the United States mail, interstate telephone and other electronic communications, and the facilities of the New York Stock Exchange ("NYSE"), a national securities exchange.

PARTIES

5. Plaintiff David Buehring, as set forth in the accompanying certification incorporated by reference herein, purchased the common stock of Tempur Sealy during the Class Period and has been damaged thereby.

6. Defendant Tempur Sealy develops, manufactures, and distributes bedding products worldwide. The Company maintains its principal executive offices in Lexington, Kentucky, and its common stock is trades on the NYSE under the ticker symbol "TPX."

7. Defendant Scott L. Thompson ("Thompson") is, and was at all relevant times, Tempur Sealy's President, Chief Executive Officer ("CEO") and Chairman of its Board of Directors.

8. Defendant Barry A. Hytinen ("Hytinen") is, and was at all relevant times, Tempur Sealy's Executive Vice President and Chief Financial Officer ("CFO").

9. Defendants Thompson and Hytinen are collectively referred to hereinafter as the "Individual Defendants." Tempur Sealy and the Individual Defendants are collectively referred to herein as "Defendants."

10. Because of the Individual Defendants' executive positions, they each had access to the undisclosed adverse information about Tempur Sealy's business, operations, products, operational trends, financial statements, markets, and present and future business prospects via internal corporate documents (including the Company's operating plans, budgets and forecasts, and reports of actual operations compared thereto), conversations and connections with other corporate

officers and employees, and attendance at management and Board of Directors meetings and committees thereof.

11. Each of the Individual Defendants were directly involved in the management and day-to-day operations of the Company at the highest levels and were privy to confidential proprietary information concerning the Company and its business, operations, products, growth, and present and future business prospect, as alleged herein. In addition, Individual Defendants were involved in drafting, producing, reviewing, and/or disseminating the false and misleading statements and information alleged herein, were aware, or recklessly disregarded, the false and misleading statements being issued regarding the Company, and approved or ratified these statements, in violation of the federal securities laws.

12. As officers and controlling persons of a publicly-held company whose common stock is registered with the SEC pursuant to the Exchange Act and trades on the NYSE, which is governed by the provisions of the federal securities laws, the Individual Defendants each had a duty to promptly disseminate accurate and truthful information with respect to the Company's financial condition and performance, growth, operations, financial statements, business, products, markets, management, earnings, and present and future business prospects. In addition, the Individual Defendants each had a duty to correct any previously-issued statements that had become materially misleading or untrue so that the market price of the Company's publicly-traded stock would be based upon truthful and accurate information. Defendants' false and misleading misrepresentations and omissions during the Class Period violated these specific requirements and obligations.

13. The Individual Defendants, because of their positions of control and authority as officers and/or directors of the Company, were able to, and did, control the content of the various SEC filings, press releases, and other public statements pertaining to the Company during the Class

Period. Each Individual Defendant was provided with copies of the documents alleged herein to be misleading before, or shortly after, their issuance and/or had the ability and/or opportunity to prevent their issuance or cause them to be corrected. Accordingly, each Individual Defendant is responsible for the accuracy of the public statements detailed herein and is, therefore, primarily liable for the representations contained therein.

14. Each Defendant is liable as a participant in a fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of Tempur Sealy common stock by disseminating materially false and misleading statements and/or concealing material adverse facts. The scheme: (i) deceived the investing public regarding Tempur Sealy's financial performance, business, products, operations, prospects, and the intrinsic value of Tempur Sealy common stock; (ii) enabled corporate insiders of Tempur Sealy to sell over $8.2 million of Tempur Sealy common stock to the unsuspecting public at artificially inflated prices; and (iii) caused Plaintiff and the Class to purchase Tempur Sealy publicly-traded stock at artificially inflated prices.

SUBSTANTIVE ALLEGATIONS

Background

15. Defendant Tempur Sealy describes itself as the world's largest bedding provider, developing, manufacturing, and distributing bedding products that are sold in approximately 100 countries worldwide. As illustrated in the following chart, Tempur Sealy's product lines range from value to luxury and its brand names include TEMPUR®, Tempur-Pedic®, Sealy®, Sealy Posturepedic®, and Stearns & Foster®:

Tempur Sealy Has Well Established Global Brands
Brands are complementary and fully cover the market
Tempur Sealy is the premium market leader
Percentage of Revenue(6)
Luxury
Premium
Mid-Price
Value
TEMPUR-PEDIC
Tempur-Pedic
• Nothing precisely adapts, supports and aligns like Tempur-Pedic for life-changing sleep
50%
STEARNS & FOSTER
Stearns & Foster
• Finest beds made with exceptional materials and unparalleled craftsmanship
10%
Sealy Posturepedic
Sealy Posturepedic
• Posturepedic technology providing support that's right for you
25%
COCOON
COCOON by Sealy
• Your bed, your way
Launched in 1Q 2016
Sealy
Sealy
• Value, comfort and durability
15%
6
TEMPUR+SEALY

16. Prior to and during the Class Period, Mattress Firm Holding Corp. ("Mattress Firm") was the Company's largest customer and accounted for approximately 25% of Tempur Sealy's 2015 net sales. The Company includes Mattress Firm as one of its "national accounts."

17. On August 7, 2016, Steinhoff International Holdings NV ("Steinhoff") agreed to buy Mattress Firm for approximately $2.4 billion. In connection with the acquisition, Mattress Firm experienced a disruption in its business, particularly because it rebranded and remerchandised 1,000 of its Sleepy stores.

18. Thereafter, Mattress Firm sought to renegotiate its supply agreements with Tempur Sealy seeking, among other things, "significant economic concessions" from the Company. After the parties were unable to reach a resolution on the matter, Tempur Sealy issued formal termination notices to Mattress Firm, effective January 27, 2017, for all of its brands and Tempur Sealy announced that it will cease doing business with Mattress Firm during the first quarter of 2017.

19. While Tempur Sealy and Mattress Firm were engaged in contentious deliberations over renegotiating the terms of their existing agreements, however, Defendants made materially false

and misleading statements about its then existing and future financial prospects, including those with Mattress Firm.

Materially False and Misleading Statements Issued During the Class Period[1]

20. The Class Period begins on July 28, 2016. Before the market opened on that date, Tempur Sealy issued a press release announcing its financial results for the 2016 fiscal second quarter, the period ending June 30, 2016. Tempur Sealy reported its net sales increased 5.2% during the quarter to $804.4 million from $764.4 million in the second quarter of 2015. On a constant currency basis, i.e., total foreign net sales reported in U.S. dollars using the comparable prior year period's currency conversion rates, total net sales increased 6.6%, with a net sales increase of 6.4% and 7.6% in North America and Europe, Asia-Pacific and Latin America (collectively referred to as "International"), respectively.

21. Defendant Thompson, commenting on the results, stated, in pertinent part, as follows:

> Thanks to the hard work of our more than 7,000 associates worldwide, the Company had an excellent quarter. We are gaining traction toward the goals we have set. Adjusted EBITDA and gross margins have increased for the third consecutive quarter, adjusted EPS is up 74%. We are improving operating leverage, continuing to invest heavily in our brands, expanding distribution, and successfully servicing our retailers and direct customers. By continuing to strengthen our iconic brands, drive higher ROIC and enhance our competitive cost position, we are positioning the Company well to deliver for our investors and other stakeholders for years to come.

22. The press release also announced that the Company had raised the low end of its 2016 adjusted EBITDA guidance, stating, in pertinent part, as follows:[2]

> **The Company also today updated its financial guidance for 2016. For the full year 2016, the Company currently expects Adjusted EBITDA to range from $525 million to $550 million**. The Company noted its expectations are based on information available at the time of this release, and are subject to changing conditions, many of which are outside the Company's control. [Footnote omitted.]

---

1 Emphasis is added herein unless otherwise noted.

2 According to the Company's filings with the SEC, adjusted EBITDA, a non-U.S. generally accepted accounting principle financial measure, provides investors with useful information with respect to its performance.

23. Later that day, Defendants held a conference call with analysts and investors to discuss Tempur Sealy's 2016 second quarter operating results. During the conference call, Defendant Thompson discussed some of the Company's initiatives, including the launch of the Company's new TEMPUR-Breeze and the Stearns & Foster product lines in North America during the 2016 first fiscal quarter.

24. In addition, Defendant Hytinen provided additional detail about the Company's performance in North America, stating, in pertinent part, as follows:

> On a segment basis, North America net sales increased 6% and were up 6.4% in constant currency. Both the Tempur and Sealy U.S. businesses grew mid-single digits. Sales in Canada were strong, increasing 15% on a constant currency basis and high single-digits at reported rates. North America bedding product sales increased 5.2% and 6% at constant currency.
>
> Bedding units were up 2% in total. However, excluding floor models, they were up 3% as our launches last year had more floor model units. Sales growth was driven by higher demand for our Tempur products, particularly our new Breeze mattress, our Sealy Posturepedic and new Stearns & Foster products were also key drivers of growth. National accounts were below fleet performance. While that was a headwind to our revenue, it was a tailwind to our gross margin. Year-over-year average selling price was positively impacted by pricing actions taken earlier this year and positive merchandising mix for both Tempur-Pedic and our Sealy brand products.
>
> Our North American other channel grew 70% in the quarter. Now this channel is predominately made up of our hospitality and high margin Tempur direct-to-consumer business. As I look at our results, a personal highlight for me is that our Internet sales increased over 40% as compared to the second quarter last year. Other product sales were up 25%, primarily driven by our joint venture and offset by lower sales of Tempur-Pedic pillows. The decline in pillows sales is an area that the team is looking at very closely, and may have some upside in 2017.

25. Defendant Hytinen also commented on the Company's 2016 financial guidance, stating, in pertinent part, as follows:

> Now, turning to our financial guidance. Today, we are raising the low-end of our adjusted EBITDA guidance from $500 million to $525 million and maintaining the high-end at $550 million. The midpoint of the new range of EBITDA guidance, which increased from $525 million to $538 million represents an increase of $82 million or 18% versus prior year. **We expect to experience some sales**

> **headwinds from a noisy U.S. election cycle, continued uncontrollable events internationally, and some unfavorable FX**. This, combined with our first half sales performance of 1.4% net sales growth, we anticipate low single-digit growth for the full year.

26. During the Q&A session of the conference call, in response to an analyst question on areas of weakness, including Tempur Sealy's national accounts, Defendant Thompson represented "I wouldn't say there is any new developments that caused me to be concerned." The following exchange, in pertinent part, transpired:

> Mark Rupe, Analyst - Longbow Research:
>
> Hey, guys. Great quarter. Scott, **you called out three items of areas of weakness in the quarter, national accounts and Germany and pillows**. But Germany, I know, it's been under pressure for a few years and national accounts at least for the second quarter in a row. **Is there any new developments there that cause you to be concerned?**
>
> Defendant Thompson:
>
> **No. I wouldn't say there is any new developments that caused me to be concerned.** I think what I was pointing out is, sometimes you report a quarter and you look at and you say, gees, we hit on all eight cylinders and we're peak earnings or something. I think what I wanted to make sure, I pointed out clearly on the call is, there are some pretty major buckets that are within the company that are still underperforming. Now, we've got action plans around those items, and we're optimistic that in 2017 we'll begin to have good news. **But there's nothing new that I would say in those particular buckets**. You're right, they've been underperforming for a few quarters.

27. Defendants were also asked to provide insight on areas of weakness within the Company. In response, Defendant Thompson stated that business with the Company's national accounts, which included Mattress Firm, was going to be "fruitful." The following exchange, in pertinent part, transpired:

> Seth Basham - Wedbush Securities – Analyst:
>
> Thanks a lot and good morning. Can you give us a little more insight on to Sealy North American revenue growth breakdown between price versus units? And as a follow-up to that, if **you talk about some of the areas of weakness** and what you are doing to address those.

> . . . .
>
> Defendant Thompson:
>
> And I think you asked to expand **on the areas that were underperforming** and some actions around them. **The three I called out were national accounts, Germany, and pillows**.
>
> **If you look at national accounts, we're working with each of the national accounts, the sales teams, working with them individually. And I think that's going to be fruitful**.

28. Finally, when asked about the Company's sales outlook in North America for the remainder of 2016, Defendant Thompson stated that it "feels pretty good" with concerns only being the U.S. presidential election and Olympics. The following exchange, in pertinent part, took place:

> Bradley Thomas - KeyBanc Capital Markets – Analyst:
>
> Thanks. Good morning, Scott and Barry. And let me add my congratulations, as well, on a great quarter here. **I wanted to ask about the outlook for North America revenue in the second half of the year. And if you could just give us a little bit more color on your underlying assumptions for the outlook**.
>
> And then just a quick follow-up on that strong internet performance, maybe anything that you think may be driving that or new steps or initiatives that you have in place to take advantage of opportunities in that channel. Thank you.
>
> Defendant Thompson:
>
> Sure. Let me take a stab at it and then Barry will fix it after I talk. When we talk about detailed **revenue forecast for the back half** of the year, probably not going to go too granular on that. **I would tell you that North America feels pretty good**. It doesn't feel great.
>
> As I've talked about it over the last really six months it's really the same story. It feels good, then it feels weak, then it feels good, then it feels weak. I think that's just the reflection of a sputtering economy that may have a GDP of 1.5% to 2%. So, that's what we continue to expect, and we may be a little conservative.
>
> **We are nervous, I guess is the word, about what we think is going to be a noisy election cycle in North America and with the Olympics**. And it's been, at least my experience, that kind of noise can crowd out your message. That's a call out. **That's really the only thing we're seeing in North America that I would say we are concerned about**.

29. Following these positive statements, the price of Tempur Sealy common stock rose $10.65 per share, or nearly 17%, to close at $74.04 per share, on heavy trading volume.

30. On August 5, 2016, Tempur Sealy filed with the SEC its Form 10-Q for the quarter ended June 30, 2016 (the "Q2 Form 10-Q"), signed by Defendant Hytinen.

31. Item 2 of the Q2 Form 10-Q required Tempur Sealy to furnish the information called for under Item 303 of Regulation S-K [17 C.F.R. §229.303], *Management's Discussion and Analysis of Financial Condition and Results of Operations* ("MD&A"). In this regard, the SEC issued interpretative guidance associated with the requirements of Item 303 of Regulation S-K concerning the disclosure of material events and uncertainties, which states, in pertinent part, as follows:

> A disclosure duty exists where a trend, demand, commitment, event or uncertainty is both presently known to management and reasonably likely to have material effects on the registrant's financial condition or results of operation.
>
> . . . .
>
> **Events that have already occurred or are anticipated often give rise to known uncertainties**. For example, a registrant may know that a material government contract is about to expire. The registrant may be uncertain as to whether the contract will be renewed, but nevertheless would be able to assess facts relating to whether it will be renewed. More particularly, the registrant may know that a competitor has found a way to provide the same service or product at a price less than that charged by the registrant, or may have been advised by the government that the contract may not be renewed. The registrant also would have factual information relevant to the financial impact of non-renewal upon the registrant. **In situations such as these, a registrant would have identified a known uncertainty reasonably likely to have material future effects on its financial condition or results of operations, and disclosure would be required**.

32. The MD&A contained in the Q2 Form 10-Q failed to disclose material events and known uncertainties that were reasonably likely to have material adverse effect on its results of operations in violation of the disclosure requirements set forth in Item 303 of Regulation S-K.

33. In addition, the Q2 Form 10-Q falsely and misleadingly represented Tempur Sealy's disclosure controls were operating effectively when they were not, stating, in pertinent part, as follows:

> An evaluation was performed under the supervision and with the participation of our management, including our Chief Executive Officer (principal executive officer) and Chief Financial Officer (principal financial officer), of the effectiveness of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended ("Exchange Act"), as of the end of the period covered by this report. Based on that evaluation, our management, including our **Chief Executive Officer and Chief Financial Officer, concluded that our disclosure controls and procedures were effective as of June 30, 2016** and designed to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act, is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's ("SEC") rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

34. The Q2 Form 10-Q also contained false and misleading certifications by Defendants Thompson and Hytinen on Tempur Sealy's disclosure controls and procedures, stating, in pertinent part, as follows:

> I, [Defendants Thompson and Hytinen], certify that:
>
> 1. I have reviewed this quarterly report on Form 10-Q for the quarter ended June 30, 2016 of Tempur Sealy International, Inc.:
>
> 2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
>
> 3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
>
> 4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial

reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

> (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
>
> (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
>
> (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
>
> (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

> (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
>
> (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

35. The above-noted false and misleading omissions, statements and certifications in the Q2 Form 10-Q were falsely repeated, in all material respects, in the Form 10-Q that Tempur Sealy filed with the SEC later in the Class Period.

36. On September 14, 2016, the SEC declared effective Tempur Sealy's Form S-4 registration statement (the "Registration Statement") offering to exchange $600 million of 5.500% Senior Notes due 2026 for new 5.500% Senior Notes due 2026. The Registration Statement incorporated by reference the false and misleading Q2 Form 10-Q and, as a result, was materially false and misleading.

37. On September 27, 2016, Tempur Sealy issued a press release announcing a reduction in 2016 guidance. Defendant Thompson commented, in pertinent part, as follows:

> **Third quarter net sales are below our prior expectations. We currently expect net sales for the full year to be down 1 to 3 percent as compared to 2015**. For the full year 2016, the Company currently expects Adjusted EBITDA to range from $500 million to $525 million.
>
> While our net sales are below expectations, our operational initiatives are going well and are continuing to drive considerable margin expansion. The net impact of the revenue shortfall and our continued margin expansion is that we felt it was appropriate to lower the midpoint of our adjusted EBITDA guidance by 5%. The midpoint of this updated guidance implies an increase in adjusted EBITDA of approximately 12% and approximately 20% growth in adjusted earnings per share compared to 2015.

38. That same day, Tempur Sealy presented at Deutsche Bank Leveraged Finance Conference. During the conference, Defendant Thompson commented on the reduction in Tempur Sealy's 2016 guidance. Defendant Thompson primarily attributed the reduced forecast to: (1) an industry-wide softness in demand; (2) management mistakenly reducing the Company's promotional days during the third quarter; (3) management concentrating its advertising efforts on the newly launched TEMPUR-Breeze product at the expense of other products in the Tempur Pedic product line; and (4) the acquisition of it its largest customer, Mattress Firm, by Steinhoff, which caused "transitions" in its business.

39. Concerning the acquisition of Mattress Firm, Defendant Thompson, as part of his prepared remarks, commented that Mattress Firm was working through a rebranding of some of its stores and that "we are very optimistic long term" stating, in pertinent part, as follows:

> . . . our largest client, our largest customer, recently got purchased. They are going through some transitions and we are feeling some of that transition. **We are very optimistic long term, but as they work through rebranding some of their stores, we are going to feel some of that**.

40. During the Q&A session of the conference, Defendant Thompson explained the rebranding effort at Mattress Firm included the re-flooring of its Sleepy stores. Defendant Thompson further commented that Defendants were "thrilled with the changes [Mattress Firm was] making," and that the issues with Mattress Firm were transitory in nature and would normalize stating "within a quarter or two, we'll be back on what I'll call a normal basis." Defendant Thompson stated, in pertinent part, as follows:

> The question, in case -- you are not mic'd up. **The question is the transition, as it relates to our largest customer [Mattress Firm], what type of transition is it?**
>
> First off, I'm going to be a little bit careful because we don't generally talk about individual customers. But as you'll see in the 10-K, they are 25% of our business, so you're going to see activity in that footnote anyway. So I think I can speak and should speak a little bit about it.
>
> I would say that, look, first of all, **we are thrilled with the changes they are making**. We are thrilled with their new ownership and we think that they'll be very successful long term. **But as you may or may not know, they are also rebranding quite a few stores and transitioning from the Sleepy's brand to the Mattress Firm brand**. That means a lot of stuff moving around, and they're going to have to work through that. And **while they are working through that, we are going to feel some of that, but I think they'll get through that very rapidly. And within a quarter or two, we'll be back on what I'll call a normal basis**.
>
> Also, we thought originally that the Stearns & Foster product would make it onto Matt Firm's floor in the third quarter. As I told you before, Stearns & Foster is doing very well. And we just couldn't fit the production into our factories in a way that made sense for us and made sense for them as they re-floored. And so we had to push some of that off a month or so into the fourth quarter. So I'm going to say most of that is on us, but it's -- that was a disappointment.

41. In response to these revelations, the price of Tempur Sealy common stock plummeted $19.21 per share over a two-day period, or more than 25%, on heavy trading volume to close at $55.24 per share on September 29, 2016.

42. On October 18, 2016, Tempur Sealy announced that it had completed the exchange up to $600 million of its outstanding 5.500% senior notes due 2026 for up to $600 million of its new 5.500% senior notes due 2026.

43. On October 27, 2016, Tempur Sealy issued a press release announcing its financial results for the 2016 fiscal third quarter, the period ending September 30, 2016. For the quarter, Tempur Sealy reported its net sales decreased 5.4% to $832.4 million from $880.0 million in the third quarter of 2015. On a constant currency basis, total net sales decreased 4.6%, with a net sales decrease of 5.8% and 1.8% in North America and in International, respectively.

44. Defendant Thompson commented on the results, stating, in pertinent part, as follows:

> We are pleased to report record EBITDA and GAAP EPS for the quarter. The flexibility of our business model was displayed this quarter as our top line sales were below our original expectations yet we delivered significant margin expansion and 19% EPS growth. We continue to effectively execute on our core strategy to drive our long term operating performance.

45. Following the issuance of the press release, Defendants held a conference call with analysts and investors to discuss the Company's 2016 third quarter results. Defendant Thompson explained stated that the Company's less than expected reported sales were an "air pocket," largely due to a 5.8% sales decline in the North America.

46. Consistent with his comments on September 27, 2016, Defendant Thompson generally attributed the third quarter sales shortfall to: (1) an industry-wide softness in demand; (2) management mistakenly reducing the number of promotional days during the Labor Day period; (3) management over-emphasizing its advertising efforts on the newly launched TEMPUR-Breeze

product at the expense of its legacy products; (4) a decline in non-bedding product sales; and (5) the rebranding and remerchandising of over 1,000 Mattress Firm stores.

47. Defendant Thompson further noted that, but for the sales decline at Mattress Firm, Tempur Sealy's U.S. sales during the third quarter of 2016 would have been flat on as year-over-year basis (suggesting sales to Mattress Firm declined by approximately $40 million - $50 million, or 20%, during the quarter) and that Mattress Firm's rebranding and remerchandising efforts were expected to adversely impact Tempur Sealy's U.S. sales for the balance of 2016 before improving in 2017, stating, in pertinent part, as follows:

> The third-quarter sales were down 4.6% year on year on a constant currency basis versus the third quarter last year. This was below our expectations. The sales shortfall is largely due to a 5.8% decline in the North America segment. I'd like to take a minute and talk about the factors impacting our top-line results in North America.
>
> . . . .
>
> **We believe this air pocket in sales during the third quarter** was driven largely of the following. First, it is clear that the retail environment in the US in the third quarter, was less robust than we had expected. Based on our review of industry data and conversations with industry participants, overall mattress sales in the US were soft during the third quarter. In addition, to softness, but not limited to the mattress industry, as we've seen similar challenging results in furniture, home appliances, auto retail, and other consumer durable goods.
>
> **Second, we experienced some significant weakness in our largest national account, which is in the process of rebranding and re-merchandising over 1,000 recently acquired stores. To put this factor in perspective, if we were to exclude the sales of our largest national account, in the third quarter of 2016 and 2015, our US sales would have been flat for the third quarter. We expect this transition of stores to be very successful, but we also expect it will continue to impact our sales for the remainder of 2016, before improving in 2017. We are encouraged by the improved Tempur Sealy sales trends in the markets that have already undergone rebranding, and are thrilled to help where we can in this significant transition**.
>
> Third, we made a couple of mistakes in our marketing and sales strategy. For example, our advertising campaign overemphasized our newly launched TEMPUR-Breeze line and neglected to support legacy Tempur products. This resulted in very

strong performance from our TEMPUR-Breeze line of products, but declines in our legacy products as they were not included in the advertising.

Another example of a misstep was our reduction in the number of promotional days around the key Labor Day period, compared to last year. This put us at a disadvantage on the retail floor. I should also point out that we redesigned our Tempur Labor Day incentives, adding unnecessary complexity.

Lastly, our non-bedding product sales, which include pillows and products sold through our North American joint venture were down $20 million, representing almost half of our North American revenue decline this quarter. We have mentioned previously that our pillow business needs some attention, and we plan to update you on our plans next quarter. As for our North America joint venture, we have advised you in the past that the orders are very lumpy, and although the sales were disappointing this quarter, the lumpiness is not uncommon.

48. During the Q&A session of the conference call, when asked about the medium-term outlook and long-term opportunities associated with Mattress Firm, Defendant Thompson commented that Tempur Sealy had gained market share in those stores that Mattress Firm had rebranded and called working with Steinhoff to generally be "outstanding." The following exchange, in pertinent part, transpired:

Brad Thomas - KeyBanc Capital Markets – Analyst:

Yes, thank you for taking my question. My first question will be on distribution, and really two parts. I was hoping you could **talk a little bit more about transition, the rebranding that's underway at Mattress Firm and maybe give a little more color around how much of an issue may be at the Sleepy's stores that are being rebranded**. And how the floor space is changing, are you gaining share as they rebrand the stores? **What that medium outlook is there? And then part two would be longer-term, how you think of the opportunity with Mattress Firm, particularly as they are now under new ownership**. Thank you.

Defendant Thompson:

First of all, let me say that I would normally never even talk about an individual customer on the phone but the FCC requires us to have some financial disclosure of that concentration so it's impossible not to. You will see some of that disclosure in the Q that we will be filing. I think the first thing I would say is, **we think it will be very successful, the transition of the stores**. It's a fluid process. We're not going to talk about their game plan because that's confidential, **but I can tell you where they have made the transition in rebranding. The stores have done well. And Tempur Sealy 's sales have increased from a balance of share stand point**. I

> think I can say that clearly. As far as new ownership, look, **we work with the Steinhoff Organization worldwide, in general we find them to be outstanding**. And our balance of share has increased generally worldwide in markets that we have worked with them. And we are wildly optimistic about the future for both the Mattress Firm team and Tempur Sealy.

49. Later in the conference call, Defendant Thompson stated "we are working closely with our largest accounts [including Mattress Firm] and will continue to work very closely with them and make the investments we need to in people and energy to make that transition successful."

50. On November 4, 2016, Tempur Sealy filed with the SEC its Form 10-Q for the quarter ended September 30, 2016 (the "Q3 Form 10-Q"), signed by Defendant Hytinen. The Q3 Form 10-Q contained false and misleading MD&A disclosures and disclosure control representations, as well as Individual Defendants' certifications thereon. *See* ¶¶ 31-34 *supra*.

51. The statements referenced in ¶¶ 20-28, 30-40, and 43-50 above were materially false and misleading when made because they misrepresented and failed to disclose the following adverse facts, which were known to Defendants or recklessly disregarded by them:

(a) that prior to and during the Class Period, Mattress Firm had been engaged in active negotiations to be acquired and that any such acquisition was reasonably likely to have a material adverse effect in Tempur Sealy's 2016 third and fourth quarter operating results;

(b) that during the Class Period, Tempur Sealy was engaged in active discussions with Mattress Firm concerning modifications to their long-term supply agreements;

(c) that Mattress Firm had been seeking significant economic concessions from Tempur Sealy during the Class Period;

(d) that, based on (a) through (c) above, Defendants lacked a reasonable basis for the Company's positive statements associated with Mattress Firm, including, but not limited to:

(i) Defendant Thompson's representations on July 28, 2016, about there being no new developments of concern, "fruitful" national account performance, and a "pretty good" sales outlook for the balance of 2016, with concerns only being the U.S. presidential election and Olympics;

(ii) Defendant Thompson's representation on September 27, 2016, that sales to Mattress Firm would normalize "within a quarter or two;"

(iii) Defendant Thompson's representation on October 27, 2016, that sales to Mattress Firm would improve during 2017; and

(iv) Defendants' representations about the nature of Tempur Sealy's relationship with Mattress Firm and Steinhoff;

(e) that the Company's MD&A disclosures in its filings made with the SEC were materially false and misleading;

(f) that the disclosure controls representations in its filings made with the SEC were materially false and misleading;

(g) that the certifications issued by Defendants Thompson and Hytinen associated with Tempur Sealy's disclosure controls were materially false and misleading; and

(h) that, based on the foregoing, Defendants lacked a reasonable basis for their positive statements about Tempur Sealy's then-current business and future financial prospects.

52. On January 30, 2017, before the market opened, the Company issued a press release announcing that the senior management of Mattress Firm and representatives of Steinhoff notified Tempur Sealy of their intent to terminate all of their contracts with the Company in the U.S. if Tempur Sealy did not agree to considerable modifications to their existing agreements, including "significant economic concessions." The press release further noted that after the parties were unable to reach a resolution on the matter, the Company issued formal termination notices to

Mattress Firm for all of Tempur Sealy's brands effective January 27, 2017, and that Tempur Sealy expects to cease doing business with Mattress Firm during the first quarter of 2017.

53. In response to these revelations, the price of Tempur Sealy common stock plummeted $20.19 per share over a two-day period, or nearly 32%, on extremely heavy trading volume to close at $43.00 per share on January 31, 2017.

54. The market for Tempur Sealy common stock was open, well-developed, and efficient at all relevant times. As a result of the alleged materially false and/or misleading statements, and/or omissions of material fact alleged herein, Tempur Sealy common stock traded at artificially inflated prices during the Class Period. Plaintiff and other members of the Class purchased Tempur Sealy common stock relying upon the integrity of the market price of Tempur Sealy common stock and market information relating to Tempur Sealy, and have been damaged thereby.

55. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of Tempur Sealy common stock, by publicly issuing false and misleading statements and omitting material facts necessary to make Defendants' statements, as set forth herein, not false and misleading. Said statements and omissions were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about the Company, its business and operations, as alleged herein.

56. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused, or were a substantial contributing cause of, the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false or misleading statements about Tempur Sealy's business, major customers, and its operations. These material misstatements and omissions had the effect of creating in the market an unrealistically positive

assessment of Tempur Sealy, its business, and financial prospects, thus causing the Company's common stock to be overvalued and artificially inflated at all relevant times. Defendants' materially false and misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's common stock at artificially inflated prices, thus causing the damages complained of herein.

ADDITIONAL SCIENTER ALLEGATIONS

57. As alleged herein, Defendants acted with scienter in that they: (1) knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; (2) knew that such statements or documents would be issued or disseminated to the investing public; and (3) knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. Defendants, by virtue of their receipt of information reflecting the true facts regarding Tempur Sealy, their control over, and/or receipt, and/or modification of Tempur Sealy's allegedly materially misleading misstatements, and/or their associations with the Company which made them privy to confidential proprietary information concerning Tempur Sealy, participated in the fraudulent scheme alleged herein.

58. The fraudulent scheme described herein could not have been perpetrated during the Class Period without the knowledge and complicity of, or at least the reckless disregard by, personnel at the highest levels of the Company, including Defendants Thompson and Hytinen. Given their executive level positions with Tempur Sealy, Defendants Thompson and Hytinen controlled the contents of Tempur Sealy's public statements during the Class Period. Defendants Thompson and Hytinen were each provided with, or had access to, the information alleged herein to be false and/or misleading prior to, or shortly after, their issuance and had the ability and opportunity

to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information, the Defendants Thompson and Hytinen knew, or recklessly disregarded, that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public and that the positive representations that were being made were false and misleading. As a result, each of the Defendants was responsible for the accuracy of Tempur Sealy's corporate statements and are, therefore, responsible and liable for the representations contained therein.

59. Plaintiff also alleges that scienter of Defendants Thompson and Hytinen who, as executive officers of the Company, knew or recklessly ignored facts related to the core operations of Tempur Sealy, can be imputed to Tempur Sealy.

60. In addition, the scienter of the Defendants is underscored by the Sarbanes-Oxley Act mandated certifications of Defendants Thompson and Hytinen, which acknowledged their responsibility to investors for establishing and maintaining controls to ensure that material information about Tempur Sealy was made known to them and that the Company's disclosure related controls were operating effectively.

61. Defendants were also motivated to engage in this course of conduct to allow Company insiders to sell more than $8.2 million of Tempur Sealy common shares at artificially inflated prices during the Class Period.

LOSS CAUSATION

62. As detailed herein, during the Class Period, Defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated the price of Tempur Sealy common stock. This scheme operated as a fraud or deceit on Class Period purchasers of Tempur Sealy common stock by failing to disclose and misrepresenting the adverse facts detailed herein.

When Defendants' prior misrepresentations and fraudulent conduct were disclosed and became apparent to the market, the price of Tempur Sealy common stock declined significantly as the prior artificial inflation came out of the Company's common stock price.

63. By concealing from investors the adverse facts detailed herein, Defendants presented a misleading picture of Tempur Sealy's business, prospects, and operations. Defendants' false and misleading statements had the intended effect and caused Tempur Sealy common stock to trade at artificially inflated levels throughout the Class Period, reaching as high as $82.32 per share on September 7, 2016. As a result of their purchases of Tempur Sealy common stock at artificially inflated prices during the Class Period, Plaintiff and the other Class members suffered economic loss, i.e., damages, under the federal securities laws.

64. When the truth about the Company was revealed to the market, the price of Tempur Sealy common stock fell significantly. These declines removed the inflation from the price of Tempur Sealy common stock, causing real economic loss to investors who had purchased Tempur Sealy common stock during the Class Period. The decline in the price of Tempur Sealy common stock after the corrective disclosures came to light were a direct result of the nature and extent of Defendants' fraudulent misrepresentations being revealed to investors and the market. The timing and magnitude of the price decline in Tempur Sealy common stock negates any inference that the loss suffered by Plaintiff and the other Class members was caused by changed market conditions, macroeconomic or industry factors, or Company-specific facts unrelated to Defendants' fraudulent conduct.

65. The economic loss, i.e., damages, suffered by Plaintiff and the other Class members was a direct result of Defendants' fraudulent scheme to artificially inflate the price of Tempur Sealy

common stock and the subsequent significant decline in the value of Tempur Sealy common stock when Defendants' prior misrepresentations and other fraudulent conduct were revealed.

APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD ON THE MARKET DOCTRINE

66. At all relevant times, the market for Tempur Sealy common stock was an efficient market for the following reasons, among others:

(a) Tempur Sealy common stock met the requirements for listing, and was listed and actively traded on the NYSE, a highly efficient, national stock market;

(b) As a regulated issuer, Tempur Sealy filed periodic public reports with the SEC and the NYSE;

(c) Tempur Sealy regularly communicated with public investors via established market communication mechanisms, including regular disseminations of press releases on the national circuits of major newswire services and other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

(d) Tempur Sealy was followed by securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

67. As a result of the foregoing, the market for Tempur Sealy common stock promptly digested current information regarding Tempur Sealy from all publicly available sources and reflected such information in the prices of the common stock. Under these circumstances, all purchasers of Tempur Sealy common stock during the Class Period suffered similar injury through their purchase of Tempur Sealy common stock at artificially inflated prices and a presumption of reliance applies.

NO SAFE HARBOR

68. The statutory safe harbor provided for forward-looking statements under the Private Securities Litigation Reform Act of 1995 does not apply to any of the allegedly false statements plead in this Complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged to be false may be characterized as forward-looking, they were not adequately identified as "forward-looking statements" when made, and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. In the alternative, to the extent that the statutory safe harbor is determined to apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the speaker had actual knowledge that the forward-looking statement was materially false or misleading, and/or the forward-looking statement was authorized or approved by an executive officer of Tempur Sealy who knew that the statement was false when made.

COUNT I

Violation of Section 10(b) of The Exchange Act and Rule l0b-5 Promulgated Thereunder Against All Defendants

69. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

70. During the Class Period, Defendants disseminated or approved the materially false and misleading statements specified above, which they knew, or recklessly disregarded, were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

71. Defendants: (1) employed devices, schemes, and artifices to defraud; (2) made untrue statements of material fact and/or omitted material facts necessary to make the statements made not misleading; and (3) engaged in acts, practices, and a course of business that operated as a fraud and deceit upon the purchasers of the Company common stock during the Class Period.

72. Plaintiff and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for Tempur Sealy common stock. Plaintiff and the Class would not have purchased Tempur Sealy common stock at the prices they paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by Defendants' misleading statements.

73. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their purchases of Tempur Sealy common stock during the Class Period.

COUNT II

Violation of Section 20(a) of
The Exchange Act Against the Individual Defendants

74. Plaintiff repeats and realleges each and every allegation above as if fully set forth herein.

75. The Individual Defendants acted as controlling persons of Tempur Sealy within the meaning of Section 20(a) of the Exchange Act. By virtue of their positions as officers and/or directors of Tempur Sealy, and/or their ownership of Tempur Sealy common stock, the Individual Defendants had the power and authority to, and did, cause Tempur Sealy to engage in the wrongful conduct alleged.

76. As a direct and proximate result of the Individual Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their purchases of Tempur Sealy common stock during the Class Period.

77. By reason of such conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Class, prays for judgment as follows:

A. Declaring this action to be a class action properly maintained pursuant to Rule 23 of the Federal Rules of Civil Procedure and Plaintiff's counsel as Lead Counsel;

B. Awarding Plaintiff and other members of the Class damages together with interest thereon;

C. Awarding Plaintiff and other members of the Class their costs and expenses of this litigation, including reasonable attorneys' fees, expert fees, and other costs and disbursements; and

D. Awarding Plaintiff and other members of the Class such other and further relief as the Court deems just and proper under the circumstances.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

DATED: March 24, 2017

JOHNSON & WEAVER, LLP

s /W. Scott Holleman
W. SCOTT HOLLEMAN

99 Madison Avenue, 5th Floor
New York, NY 10016
Telephone: (212) 802-1486
Facsimile: (212) 602-1592
scotth@johnsonandweaver.com

JOHNSON & WEAVER, LLP
FRANK J. JOHNSON
600 West Broadway, Suite 1540
San Diego, CA 92101
Telephone: (619) 230-0063
Facsimile: (619) 255-1856
frankj@johnsonandweaver.com

Attorneys for Plaintiff David Buehring

CERTIFICATION OF PLAINTIFF PURSUANT TO THE FEDERAL SECURITIES LAWS

I, Dave Buehring, declare the following as to the claims asserted, or to be asserted, under the federal securities laws:

1. I have reviewed the complaint with my counsel and authorize its filing.

2. I did not acquire the securities that are the subject of this action at the direction of plaintiff's counsel or in order to participate in any private action or any other litigation under the federal securities laws.

3. I am willing to serve as a representative party on behalf of the class, including testifying at deposition or trial, if necessary.

4. I made the following transactions during the Class Period in the securities that are the subject of this action.

Acquisitions:

Date Acquired	Number of Shares Acquired	Acquisition Price Per Share
09/29/2016	100	56

Sales:

Date Sold	Number of Shares Sold	Selling Price Per Share
3/2/2017	100	46.1114

5. I will not accept any payment for serving as a representative party beyond my pro-rata share of any recovery, except reasonable costs and expenses – such as lost wages and travel expenses – directly related to the class representation, as ordered or approved by the Court pursuant to law.

6. I have not sought to serve or served as a representative party for a class in an action under the federal securities laws within the past three years, except if detailed below:

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 23rd day of March 2017.

DocuSigned by:
David Buehring
BF7EB6E9639A43D...

Dave Buehring